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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/655,136	05/30/1996	BRUCE TOGNAZZINI	2860-014	8272

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EXAMINER

HEWITT II, CALVIN L

ART UNIT

PAPER NUMBER

3621

DATE MAILED: 06/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	08/655,136	TOGNAZZINI, BRUCE
	Examiner	Art Unit
	Calvin L Hewitt II	3621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 27 February 2003.

2a) This action is **FINAL**.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-15 and 17-20 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) 5-10 and 15 is/are allowed.

6) Claim(s) 1,3,4,11-14 and 17-20 is/are rejected.

7) Claim(s) 2 is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 20.

4) Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_

***Status of Claims***

1. Claims 1-15 and 17-20 have been examined.

***Response to Arguments***

2. The Applicant is of the opinion that the prior art of Benton et al. is lacking as it doesn't disclose the following features: a card reader, a key for activating a data memory to send information received from one called station to another, storing card information received from a seller in memory located at a customer site telephone and determining whether a customer phone is memory equipped. The Examiner respectfully disagrees.

The phone of Benton et al. comprises a card, or portable module (figures 1a-2) that can be inserted into a resident unit (figure 4). Hence, in order to read data from the card, the resident unit necessarily comprises a "card" reader. The phone of Benton et al. stores electronic funds (column/line 5/50-7/11) and uses keys (figures 1a-2, and 4) to communicate between modules (i.e. phones). Further, as Benton et al. explicitly recite modules operating in buyer or seller mode (figures 1a and 4; column 4, lines 25-67) it reads on the scenario of a person A buying a good from person B for 100 dollars and person B using the same 100 dollars to purchase another, or perhaps the same, item from person A,

or another buyer/seller person C. Therefore, the Benton et al. system reads on using a key to send stored information, such as card information received from a seller in memory located at a customer site telephone. Finally, the Applicant clearly denotes that determining whether a phone is memory equipped or not, is merely the determination of the presence of a portable device (Specification, column/line 14/22-15/12), which is a processing step that can also be found in the teachings of Benton et al. determining whether a telephone of a customer is memory equipped (column 6, lines 31-35; column/line 11/54-12/16; column 15, lines 9-49).

Hence the Examiner maintains the rejection.

***Allowable Subject Matter***

3. Claims 5-10 and 15 are allowed.
4. Claim 2 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1, 3, 4, 18 and 19 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Benton et al., U.S. Patent No. 4,625,276.

As per claims 1, 3, 4, 18 and 19, Benton et al. teach a data logging and transfer system comprising:

- a telephone set connected to a telephone line (figure 4; column 2, lines 57-63; column 4, lines 25-58; column 5, lines 1-26)
- an integrated telephone set comprising a data interface, card reader, data memory and key (figure 4)
- a data interface connected to said line (figure 4; column 2, lines 57-63; column 4, lines 25-58)
- a card reader for reading credit card information and sending it to a called station over a data interface (figures 1-2, and 4; column 2, lines 57-63; column 4, lines 25-58; column 6, lines 28-34)

- data memory for storing information from one called station, including card information using the data interface (column/line 6/9-7/12; column/line 11/53-12/17; column/line 13/51-14/15; column 16, lines 6-37; column 19, lines 14-24; column 31, lines 35-39)
- a key for activating data memory to send stored information to another called station (column/line 6/9-7/12)

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 11, 12, 16, 17, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Benton et al., U.S. Patent No. 4,625,276.

As per claims 11, 12, 16, and 20, Benton et al. teach that modules can operate in buyer or seller mode (figures 1a and 4; column 4, lines 25-67) and that the cards store and electronically transfer funds (column/line 5/50-7/12).

Therefore, the Benton et al. system reads on person A buying a good from person B for 100 dollars and person B using the same 100 dollars to purchase

another, or perhaps the same, item from person A, or another buyer/seller person C.

As per claim 17, Benton et al. teach determining whether a telephone of a customer is memory equipped (column 6, lines 31-35; column/line 11/54-12/16; column 15, lines 9-49). In general, it would have been obvious to one of ordinary skill to establish the means for implementing a transaction (e.g. cash or credit, using portable unit, portable unit with resident unit, or without units) prior to executing a transaction.

9. Claims 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Benton et al., U.S. Patent No. 4,625,276 in view of Haluska, U.S. Patent No. 5,638,519.

As per claims 13 and 14, Benton et al. teach a telephone purchase system comprising:

- recording information from a customer in digital form (figures 1a and 4; column 4, lines 25-67; column 13, lines 50-66)
- determining whether a telephone of a customer is memory equipped (column 6, lines 31-35; column/line 11/54-12/16; column 15, lines 9-49)

In addition, regarding the determination of whether a telephone is memory equipped, it would have been obvious to one of ordinary skill to establish the

means for implementing a transaction (e.g. cash or credit, using portable unit, portable unit with resident unit, or without units) prior to executing a transaction. However, Benton et al. do not explicitly recite sending the recorded information to a customer. Haluska teaches digital receipts (column 4, lines 38-57; column 5, lines 40-51; column 7, lines 33-47). Therefore, it would have been obvious to one of ordinary skill to combine the teachings of Benton et al. and Haluska, in order to provide users with a delivery of goods acknowledgement ('519, column 4, lines 38-57; column 5, lines 40-51; column 7, lines 33-47) containing transaction data ('276, column 13, lines 51-65) so that each entity may have a valid copy of the final transaction.

### ***Conclusion***

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be

calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

11. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Calvin Loyd Hewitt II whose telephone number is (703) 308-8057. The Examiner can normally be reached on Monday-Friday from 8:30 AM-5:00 PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, James P. Trammell, can be reached at (703) 305-9768.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks  
c/o Technology Center 2100  
Washington, D.C. 20231

or faxed to:

(703) 305-7687 (for formal communications intended for entry and after-final communications),

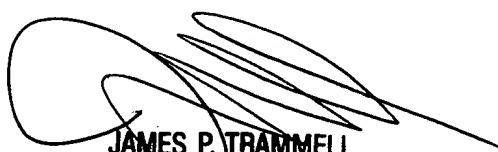
or:

(703) 746-5532 (for informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park 5, 2451  
Crystal Drive, 7th Floor Receptionist.

Any inquiry of a general nature or relating to the status of this application  
should be directed to the Group receptionist whose telephone number is (703)  
308-1113.

Calvin Loyd Hewitt II  
March 10, 2003



JAMES P. TRAMMELL  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600